

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Frederick William Strahm et al. Art Unit : 2456
Serial No. : 09/811,161 Examiner : Ashokkumar B. Patel
Filed : March 16, 2001 Conf. No. : 5789
Title : PLURAL NETWORK COMMUNICATION CONNECTIONS (AS AMENDED)

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, Applicant responds to the Examiner's Answer as follows

I – Rejections of claims 1-7, 9, 19, 20, 22-25, 27-32, 38-45 and 48

The examiner states, regarding claim 1:

...Examiner had discerned that when the claim recites "opening a connection", the claim means "activating the connection" through the selection.¹

Appellant contends that the examiner misconstrues the claim language. Appellant reminds the Board that it is incumbent upon the examiner that "[d]uring patent examination, the pending claims must be 'given their broadest reasonable interpretation consistent with the specification.'² " In no way is the examiner's discernment of the claim language above consistent with the specification, which states "a connecting connection 220 is switched to passive 230 once it is established and properly initialized."³ That is, the meaning of "opening a connection", as construed by the examiner, is neither consistent with the Specification nor the Claims and therefore the examiner's interpretation of the claim language is in error.

The examiner apparently needs to interpret the claim language in the manner described *supra* in order to argue that a "current network" of Doviak is equivalent to an "active

¹ Examiner's Answer, Mail Date February 17, 2009, Page 41

² MPEP § 2111, *emphasis* added

³ Specification, Paragraph [0021], and FIG 2

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connection”⁴ and hence, an “open connection.” The incorrect interpretation of the claim language, however, exposes the difference between what is described in Doviak and that recited in the independent claims. Doviak, for example, does not describe “selecting, from connections including the second connection, at least one connection to be an active connection and other connections as passive connections,” as recited in claim 1. As stated in the Appeal Brief:

In contrast to claim 1, Doviak teaches a system that “instructs how to select a particular network” to connect. (See, Doviak at col. 35, ll. 37-39.) Thus, Doviak merely determines which networks are available and selects one of the networks to connect and transmit data. (See, id. at col. 35, l. 58 – col. 36, l. 34.)⁵

Further, the Decision process 206 in Doviak does not determine based on the monitored “predetermined set of parameters” whether to “open one or more additional connections” and “close one or more of the opened connections” as recited in claim 1. In contrast, the system in Doviak has a set number of installed available networks that the Decision process 206 can select from. Nowhere does Doviak teach determining whether to open or close connections (See, e.g., Doviak at FIGS. 29-30.)⁶

Furthermore, the examiner states:

Doviak not only teaches “user configuration 208” but also teaches “Network availability 210”, both providing “a predetermined set of parameters, as indicated in a-d above, corresponding to one or more characteristics of the current network (one or more active connections) and the networks other than current network (one or more passive connections).

Thus, Doviak teaches “monitoring a predetermined set of parameters corresponding to one or more characteristics of the active and passive connections.”⁷

That is, Doviak describes selecting the available network being performed based on “User Configured parameters 208” and not based on the claimed “monitoring a predetermined set of parameters.”⁸ Doviak thus does not describe: “monitoring a predetermined set of

⁴ Examiner's Answer, Mail Date February 17, 2009, Page 43

⁵ Appeal Brief filed September 15, 2008, Page 10

⁶ *Id.*, Page 11

⁷ Examiner's Answer, Mail Date February 17, 2009, Pages 43-44

⁸ Appeal Brief filed September 15, 2008, Page 11

parameters corresponding to one or more characteristics of the active and passive connections,” as also recited in claim 1.

II. – Rejections of claims 8, 10, 21, 26, and 46

The examiner states:

Examiner never cited Gopalakrishna for “determine whether to open one or more additional connections; close one or more of the opened connections; and change the selected active connection as a passive connection and select one or more of the passive connections as the active connection.”⁹

Appellant made the argument that Gopalakrishna did not describe the feature cited in the passage *supra* so as to argue effectively against the standing 35 U.S.C. § 103(a) rejection. Appellant stands by this assertion and that the combination of Doviak and Gopalakrishna neither describe nor suggest each and every feature of claims 8 and 10.

III. Grounds of Rejection III – Rejections of claims 11 and 47

The examiner states:

Examiner never cited Inoue “determine whether to open one or more additional connections; close one or more of the opened connections; and change the selected active connection as a passive connection and select one or more of the passive connections as the active connection.”¹⁰

Appellant made the argument that Inoue did not describe the feature cited in the passage *supra* so as to argue effectively against the standing 35 U.S.C. § 103(a) rejection. Appellant stands by this assertion and that the combination of Doviak and Inoue neither describe nor suggest each and every feature of claims 11 and 47.

The examiner further states:

Inoue clearly teaches a command (by receiving a message indicating at least a connected location of a mobile computer in the wireless network from the mobile computer) (that causes the server to contact a remote system,

⁹ Examiner's Answer, Mail Date February 17, 2009, Page 47

¹⁰ *Id.*, Page 48

receive a reply from the remote system, and effect a response without transmitting the reply to the device (selecting one or more cache servers located nearby the mobile computer according to the message, and controlling these one or more cache servers to cache selected WWW information selected for the mobile computer.) Inoue thereby teaches storing them in the cache server cache until requested by client, i.e. effect a response without transmitting the reply to the device.¹¹

As stated in the Appeal Brief, however:

[T]he message in Inoue does not cause the cache servers to contact the mobile device. In contrast, the message merely receives the connection location of the mobile device and to cache the "WWW information." Also, even if the cached information could somehow reasonably be construed as the claimed reply (which is not conceded), the information is made available to the mobile device in Inoue (i.e., "enable faster accesses to the selected WWW information by the mobile computer.")¹²

The examiner has failed to make the case that Inoue describes or suggests "effect a response without transmitting the reply to the device," as recited in claim 11. Rather, the "reply" as construed by the examiner (i.e., cached information) is transmitted to the device in Inoue.

For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

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Respectfully submitted,

Date: April 16, 2009

/Denis G. Maloney/

Denis G. Maloney

Reg. No. 29,670

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (877) 769-7945

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¹¹ Examiner's Answer, Mail Date February 17, 2009, Page 49

¹² Appeal Brief filed September 15, 2008, Page 15